

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

LUIS RIVERA-CRESPO,

Plaintiff,

v.

CARLOS MOLINA-RODRIGUEZ,

Defendant.

CIVIL NO.: 11-1276(ADC/SCC)

REPORT AND RECOMMENDATION

Luis Rivera-Crespo, a prisoner proceeding *pro se*, filed this § 1983 action against Carlos Molina-Rodríguez, the Secretary of the Puerto Rico Department of Corrections, and others alleging discrimination based on his disability. Docket No. 1. Rivera's complaint has so far gone untranslated, and Molina has answered, Docket No. 24, and moved to dismiss, Docket No. 22. The presiding district judge referred the case to this court for pretrial management. Docket No. 28.

Rivera previously filed another case against Molina, which was referred by consent to Magistrate Judge Vélez-Rive. Rivera v. Molina, No. 11-1041(CVR) (D.P.R. June 20, 2011) (order approving consent to proceed before U.S. Magistrate Judge). In that case, Magistrate Judge Vélez appointed the Office of the Federal Defender to represent Rivera. Rivera v. Molina, No. 11-1041(CVR) (D.P.R. May 4, 2011) (order appointing Office of the Federal Defender as counsel to pro-se plaintiff).

As the plaintiff and the primary defendant are the same in each case, which present common

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questions of law,¹ consolidation is proper under Rule 42. Fed. R. Civ. P. 42. Moreover, Rivera is represented by counsel in the case pending before Magistrate Judge Vélez, which will greatly promote judicial convenience and economy. Accordingly, I recommend that, contingent upon her consent, this case be consolidated with the case pending on the docket of Magistrate Judge Vélez. Fed. R. Civ. P. 42.

IT IS SO RECOMMENDED.

The parties have ten business days to file any objections to this report and recommendation. Failure to file same within the specified time waives the right to appeal this report and recommendation. Henley Drilling Co. v. McGee, 36 F.3d 143, 150-51 (1st Cir. 1994); United States v. Valencia, 792 F.2d 4 (1st Cir. 1986).

San Juan, Puerto Rico, this 29th day of September, 2011.

S/ Silvia Carreño-Coll
SILVIA CARREÑO-COLL
United States Magistrate Judge

¹Both complaints are civil rights claims brought under § 1983. Here, the complaint alleges discrimination based upon Rivera's disability. In the case pending on Magistrate Judge Vélez's docket, Rivera alleges violations of the Eighth Amendment's ban on cruel and unusual punishment. Amended Complaint at 11, Rivera v. Molina, No. 11-1041(CVR) (D.P.R. Aug. 3, 2011). Thus, while the factual bases for the civil rights claims are different, common legal issues, including with regard to administrative exhaustion and immunity, are presented in each case.